

CITY COUNCIL AGENDA

JANUARY 29, 2008

SYNOPSIS

PETE CONSTANT
FORREST WILLIAMS
SAM LICCARDO
KANSEN CHU
NORA CAMPOS

DISTRICT 1
DISTRICT 2
DISTRICT 3
DISTRICT 4
DISTRICT 5

CHUCK REED MAYOR

PIERLUIGI OLIVERIO
MADISON P. NGUYEN
DAVID D CORTESE, VICE MAYOR
JUDY CHIRCO
NANCY PYLE

DISTRICT 6
DISTRICT 7
DISTRICT 8
DISTRICT 9
DISTRICT 10

Welcome to the San José City Council meeting!

This Agenda contains both a Consent Calendar section for routine business items that require Council approval, and general business items arranged to correspond with San José's City Service Areas (CSAs). City Service Areas represent the policy-making level for strategic planning, policy setting, and investment decisions in the critical functions the City provides to the community. They are:

- ***Strategic Support Services*** — The internal functions that enable the CSAs to provide direct services to the community in an effective and efficient manner.
- ***Community & Economic Development*** — Manage the growth and change of the community in order to create and preserve healthy neighborhoods and ensure a diverse range of employment and housing opportunities.
- ***Neighborhood Services*** — Serve, foster, and strengthen community by providing access to lifelong learning and opportunities to enjoy life.
- ***Transportation & Aviation Services*** — A safe and efficient transportation system that contributes to the livability and economic health of the City; and provide for the air transportation needs of the community and the region at levels that is acceptable to the community.
- ***Environment and Utility Services*** — Manage environmental services and utility systems to ensure a sustainable environment for the community.
- ***Public Safety Services*** — Commitment to excellence in public safety by investing in neighborhood partnerships as well as prevention, enforcement, and emergency preparedness services.

Items listed in Section 9 require approval of both the City Council and the San José Redevelopment Agency Board.

You may speak to the City Council about any item that is on the agenda, and you may also speak on items that are not on the agenda during Open Forum. If you wish to speak to the City Council, please refer to the following guidelines:

- **Fill out a Yellow Speaker's Card and submit it to the City Clerk seated at the front table. Do this before the meeting or before the item is heard.** This will ensure that your name is called for the item(s) that you wish to address, and it will help ensure the meeting runs smoothly for all participants.
- When the Council reaches your item on the agenda, Mayor Reed will open the public hearing and call your name. Please address the Council from the podium, which is located to the left of the City Clerk's table.
- Each speaker generally has two minutes to speak per item. The amount of time allotted to speakers may vary at the Mayor's discretion, depending on the number of speakers or the length of the agenda.
- To assist you in tracking your speaking time, there is a display on the podium. The green light turns on when you begin speaking; the yellow light turns on when you have 30 seconds left; and the red light turns on when your speaking time is up.

Please be advised that, by law, the City Council is unable to discuss or take action on issues presented during Open Forum. According to State Law (the Brown Act) items must first be noticed on the agenda before any discussion or action.

The San José City Council meets every Tuesday at 1:30 p.m. and every first and third Tuesday at 7 p.m., unless otherwise noted. If you have any questions, please direct them to the City Clerk's staff seated at the tables just below the dais. Thank you for taking the time to attend today's meeting. We look forward to seeing you at future meetings.

Agendas and Staff Reports for City Council items may be viewed on the Internet at www.sanjoseca.gov/clerk/agenda.asp. Council Meetings are televised live and rebroadcast on Channel 26.

To arrange an accommodation under the Americans with Disabilities Act to participate in this public meeting, please call (408) 535-1260 or (408) 294-9337 (TTY) at least two business days before the meeting.

On occasion the City Council may consider agenda items out of order.

- **Call to Order and Roll Call**
9:31 a.m. - Closed Session, Call to Order in Council Chambers
Absent Council Members: None.

1:31 p.m. - Regular Session, Council Chambers, City Hall
Absent Council Members: None.

7:00 p.m. - Public Hearings, Council Chambers, City Hall
Absent Council Members: Campos. (Excused)
- **Invocation (District 1)**
Pastor Keith Lindstrom, West Valley Presbyterian Church presented a prayer for the Invocation.
- **Pledge of Allegiance**
The Second and Third Grade Students of Discovery Charter School and Mayor Reed led the Pledge of Allegiance.
- **Orders of the Day**
The Orders of the Day and the Amended Agenda were approved with Item 3.3 deferred to 2/5/08.

Mayor Reed introduced the new City Auditor, Sharon Winslow-Erickson, who will assume the office on March 10, 2008.
- **Closed Session Report**
City Attorney Doyle disclosed the following Closed Session actions of January 29, 2008:
 - A. **Authority to Pursue Appellate Review in a Litigation Case:**

Case Name: People v. Rust

(Continued on the next page)

CLOSED SESSION REPORT (Cont'd.)

Adverse Party or parties: Lorie Ann Rust

Substance of Litigation: Defendant filed a *Pitchess* motion seeking confidential information from arresting San José Police Officers' confidential personnel files.

Council Vote: Ayes: Campos, Chirco, Chu, Constant, Cortese, Liccardo, Nguyen, Oliverio, Pyle, Williams; Reed.

Noes: None.

Disqualified: None.

Absent: None.

Vacant: None.

1. CEREMONIAL ITEMS

- 1.1** Presentation of a commendation honoring the selfless men and women of the San José Fire Department that donated their time and services to aid in the California Wildfires this past October. (Cortese/Pyle)

(Deferred from 12/11/07 – Item 1.2 and 12/18/07 – Item 1.2)

Mayor Reed, Vice Mayor Cortese and Council Member Pyle recognized and commended the selfless men and women of the San José Fire Department that donated their time and services to aid in the California Wildfires of October 2007.

- 1.2** Presentation of a commendation to the Police Athletic League in honor of their Christmas tree giveaway program, through which they distributed 500 Christmas trees to needy families. (Campos)

Mayor Reed, Vice Mayor Cortese and Council Member Campos recognized and commended the Police Athletic League for the distribution of 500 Christmas trees to needy families.

- 1.3** Presentation of a commendation honoring the Independence 76th Cavalry Marching Band and Color Guard for taking first place in the 2007 Western Band Association, Class A. (Campos)

Heard in the evening.

Mayor Reed and Council Member Chu recognized and commended the Independence 76th Cavalry Marching Band and Color Guard for taking first place in the 2007 Western Band Association, Class A. Council Member Campos was not present.

- 1.4** Presentation of a commendation to Chinmay Jaju for his accomplishments and dedication in the field of Model Airplane competition. (Constant)

Mayor Reed and Council Member Constant recognized and commended Chinmay Jaju for his accomplishments and devotion in the field of Model Airplane competition.

1. CEREMONIAL ITEMS

- 1.5 Presentation of a proclamation for Holocaust Remembrance Week in San José in memory of the victims of the Holocaust and their families and communities. (Williams)
Mayor Reed and Council Member Williams recognized “Holocaust Remembrance Week” in the City of San José in memory of the victims of the Holocaust and their families.

2. CONSENT CALENDAR

2.1 Approval of Minutes.

Recommendation: Approval of minutes.

- (a) Regular minutes of December 4, 2007
- (b) Regular minutes of December 11, 2007
- (c) Inclusionary Housing Study Session minutes of December 11, 2007

Approved.

2.2 Final adoption of ordinances.

Recommendation: Final adoption of ordinances.

- (a) ORD. NO. 28230 – Providing for an alternative allocation of costs of providing medical insurance coverage for calendar year 2008.

Ordinance No. 28230 adopted.

- (b) ORD. NO. 28231 – Establishing a combination Rule 20A/In-Lieu fee and Rule 20B Underground Utility District along Delmas Avenue from Santa Clara Street to Auzerais Avenue, Cahill Street from San Fernando to Santa Clara Street, San Fernando Street from Highway 87 to Cahill Street, Laurel Grove Lane from Cahill Light Rail Station to Bush Street, Cahill Park from Bush Street to Wilson Avenue, San Fernando Street from Wilson Avenue to 80’ west of Wilson Street, Park Avenue from Highway 87 to Montgomery Street, and Auzerais Avenue from Bird Avenue to Highway 87.

Ordinance No. 28231 adopted.

2.3 Disclosure and Grant Agreement with San José East Evergreen Rotary.

Recommendation: Acceptance of disclosure by Vice Mayor Cortese regarding his status as an uncompensated member of the nonprofit corporation, San José East Evergreen Rotary, and approval of a grant agreement with San José East Evergreen Rotary in the amount of \$7,500. (City Clerk)

(Rules Committee referral 1/16/08)

Accepted.

2. CONSENT CALENDAR

2.4 Excused absences for Council Member Constant.

Recommendation:

- (a) Request for an excused absence for Councilmember Constant from the Regular Meeting of the City Council on January 8, 2008 due to illness.
- (b) Request for an excused absence for Councilmember Constant from the Regular Meeting of the City Council on January 15, 2008 due to illness.
- (c) Request for an excused absence for Councilmember Constant from the Regular Meeting of the Rules and Open Government Committee on January 16, 2008 due to illness.

(Constant)

(Rules Committee referral 1/16/08)

Excused.

2.5 Excused absences for Vice Mayor Cortese.

Recommendation: Request for excused absences for Vice Mayor Cortese from the Rules and Open Government Committee for the following dates in order to facilitate the Vice Mayor's membership and participation on the Metropolitan Transportation Commission:

- (a) January 23, 2008
- (b) February 13, 2008
- (c) February 27, 2008
- (d) March 12, 2008
- (e) March 26, 2008
- (f) April 9, 2008
- (g) April 23, 2008
- (h) May 14, 2008
- (i) May 28, 2008
- (j) June 11, 2008
- (k) June 25, 2008
- (l) September 10, 2008
- (m) September 24, 2008
- (n) October 8, 2008
- (o) October 22, 2008
- (p) November 5, 2008
- (q) November 19, 2008
- (r) December 3, 2008
- (s) December 17, 2008

(Reed)

(Rules Committee referral 1/16/08)

Excused.

2. CONSENT CALENDAR

2.6 Approval of fiscal actions for Redevelopment Agency Capital Projects.

Recommendation:

- (a) Adoption of the following Appropriation Ordinance and Funding Sources Resolution amendments in the Services for Redevelopment Capital Projects Fund (City-side Redevelopment Fund) for 2007-2008:
- (1) Increase the estimate for Earned Revenue by \$342,800.
 - (2) Establish an appropriation to the Department of Public Works for the G-79 Sidewalk Installation in Low-Income SNI Areas project (PSM 518) in the amount of \$97,600.
 - (3) Establish an appropriation to the Department of Transportation for the Traffic Calming Improvements – Gateway East SNI #8 project (PSM 520) in the amount of \$245,200.

Ordinance No. 28232 adopted.

Resolution No. 74214 adopted.

- (b) Adoption of resolutions making certain determinations regarding the related expenditure of Redevelopment Agency funds on certain public improvements in connection with:
- (1) The G-79 Sidewalk Installation in Low-Income SNI Areas project as more specifically described in the memorandum from the Redevelopment Agency, dated September 28, 2007;
Resolution No. 74215 adopted.
 - (2) The Traffic Calming Improvements – Gateway East SNI #8 project as more specifically described in the memorandum from the Redevelopment Agency, dated December 10, 2007.

CEQA: Mitigated Negative Declaration, File No. H06-017 and PP06-071. Council Districts 3 and 5. (Public Works/Transportation/City Manager's Office)

Resolution No. 74216 adopted.

2.7 Contract Change Order for the Airport North Concourse Package 02A Project.

Recommendation: Approval of Contract Change Order # 11 with Gonsalves & Satucci, Inc. dba Conco for the Norman Y. Mineta San José International Airport North Concourse Building Foundation and Utility Tunnel Concrete, Package 02A, to convert certain allowance specifications to cover the following necessary items : (1) subdrainage system, (2) lime treatment, (3) 12,000 volt electrical conduits relocation, and (4) west side apron paving; in the total amount of \$368,707.88, at no increase in the total contract amount. CEQA: Resolution Nos. 67380 and 71451, File No. PP07-093. (Public Works/Airport)

Approved.

2. CONSENT CALENDAR

2.8 Grant for Japantown Area Pedestrian Improvements.

Recommendation: Approval of the following actions to obtain grant funds from the Metropolitan Transportation Commission (MTC) for the Jackson Street: LRT to Japantown Pedestrian Corridor Project from First Street to Fourth Street, in the amount of \$1,300,000:

- (a) Adoption of a resolution authorizing the City Manager to execute and submit a grant application to the MTC for the Congestion Mitigation and Air Quality Improvement Program grant, in the amount of \$865,000, with a local match of \$112,070; and to execute all documents necessary to effectuate the grant.

Resolution No. 74217 adopted.

- (b) Adoption of a resolution authorizing the City Manager to execute and submit a grant application to the MTC for the 2008 Regional Transportation Improvement Program grant, in the amount of \$435,000, with no local match requirement; and to execute all documents necessary to effectuate the grant.

CEQA: Exempt, File No. PP07-054. Council District 3. SNI: 13th Street. Transportation)

Resolution No. 74218 adopted.

2.9 Annual Status Report on Library, Public Safety and Parks and Recreation Bond Programs.

Recommendation:

- (a) Acceptance of the annual status report on the Branch Library Bond Program for FY 2006-2007.
- (b) Acceptance of the annual status report on the Public Safety Bond Program for FY 2006-2007.
- (c) Acceptance of the annual status report on the San José Safe Neighborhood Parks and Recreation Bond Projects for FY 2006-2007.

CEQA: Not a Project. (Citizen Oversight Committee for the Library Bond Projects/ Citizen Oversight Committee for the Public Safety Bond Program/ Citizen Oversight Committee for the Parks and Recreation Bond Projects)

Reports Accepted.

3. STRATEGIC SUPPORT SERVICES

3.1 Report of the City Manager, Debra Figone (Verbal Report) No Report.

3.2 Report of the Rules and Open Government Committee – January 9, 2008 Mayor Reed, Chair Report and Actions of January 9, 2008 were accepted.

3.3 Report of the Rules and Open Government Committee – January 16, 2008 Mayor Reed, Chair Deferred to 2/5/08 per Orders of the Day.

3. STRATEGIC SUPPORT SERVICES

**3.4 Report of the Public Safety, Finance and Strategic Support Committee –
December 20, 2007**

Council Member Nguyen, Chair

Deferred to 2/12/08 per Administration.

**3.5 Report of the Public Safety, Finance and Strategic Support Committee –
January 17, 2008**

Council Member Nguyen, Chair

Deferred to 2/12/08 per Administration.

3.6 Quarterly Ethics Update.

Recommendation: Accept staff's quarterly presentation to the City Council regarding recent ethical issues in the news and conflicts of interest under Government Code Section 1090. (City Attorney's Office)

The Staff presentation was received.

**3.7 City Positions on the February 5, 2008 Statewide Presidential Primary Election
Ballot – Propositions 91 – 97.**

Recommendation: As recommended by the Rules and Open Government Committee on January 16, 2008, approve the recommended City positions for Propositions 91-97 on the Statewide Presidential Primary Election ballot:

- (a) Take no position on Proposition 91 – Transportation Funds. Initiative Constitutional Amendment.
- (b) Take no position on Proposition 92 – Community Colleges. Funding. Governance Fees. Initiative Constitutional Amendment and Statute.

No position adopted.

- (c) Adopt a position of support for Proposition 93 – Limits on Legislators' Terms in Office. Initiative Constitutional Amendment.

Staff recommendation not adopted.

Oppose position adopted. Noes: Campos, Cortese, Williams; Reed.

- (d) Adopt a position of support for Proposition 94 – Referendum on Amendment of Indian Gaming Compact.
- (e) Adopt a position of support for Proposition 95 – Referendum on Amendment of Indian Gaming Compact.
- (f) Adopt a position of support for Proposition 96 – Referendum on Amendment of Indian Gaming Compact.
- (g) Adopt a position of support for Proposition 97 – Referendum on Amendment of Indian Gaming Compact.

(City Manager's Office)

(Rules Committee Referral 1/16/08)

Staff recommendations not adopted.

Oppose position adopted. Noes: Constant; Reed.

3. STRATEGIC SUPPORT SERVICES

3.8 Actions related to the City Hall Exhibits Policy.

Recommendation:

- (a) Adoption of a resolution approving revisions to Council Policy 7-11, City Hall Exhibits Policy.
Resolution No. 74219 adopted approving revisions to Council Policy 7-11.
- (b) Adoption of the following Appropriation Ordinance Amendments in the General Fund:
 - (1) Establish a City-Wide appropriation to the Office of Economic Development for the City Hall Exhibits Program in the amount of \$60,000.
 - (2) Decrease the Arts Venture Fund appropriation by \$60,000.**Ordinance No. 28233 adopted.**
- (c) Adoption of the following Appropriation Ordinance Amendments in the Transient Occupancy Tax Fund:
 - (1) Establish an appropriation to the Office of Economic Development for the City Hall Exhibits Program in the amount of \$40,000.
 - (2) Decrease the Cultural Grants appropriation by \$40,000.CEQA: Not a Project. (Economic Development/General Services/City Manager's Office)
Ordinance No. 28234 adopted.

3.9 Public Hearing and adoption of a resolution vacating a public service easement along Pistache Lane.

Recommendation: Conduct a public hearing and adopt a resolution vacating a 2.5-foot public service easement along a private street, Pistache Lane, between Leigh Avenue and Foxworthy Avenue. CEQA: Negative Declaration, File No. PDC06-055. Council District 9. (Public Works)

**The Public Hearing was held.
Resolution No. 74220 adopted.**

3.10 Council Policy on Labor Negotiation Guidelines.

Recommendation: Adoption of a resolution approving a City Council Policy on Labor Negotiations Guidelines. CEQA: Not a Project. (City Manager's Office)
(Deferred from 1/15/08 – Item 3.4)

Referred to Rules and Open Government Committee of 1/30/08.

3. STRATEGIC SUPPORT SERVICES

3.11 Agreement for Public and Education Access Cable Programming Services.

Recommendation:

- (a) Approval of an agreement between the City of San José and the San José Community Media Access Corporation to provide Public and Educational (PE) Access cable programming services for the City of San José for an initial seven (7) year term, with an option to extend for three (3) additional years, in an amount that is subject to receipt of payments from the City's cable providers, but that is projected to be approximately \$10 million over the initial seven year term.

Approved.

- (b) Adoption of the following Appropriation Ordinance and Funding Sources Resolution amendments in the General Fund:
- (1) Decrease the Public, Educational and Government (PEG) Access Facilities – Capital appropriation by \$2,750,000.
 - (2) Establish an appropriation to the City Manager's Office for Public and Educational Access – Capital Expenditures in the amount of \$2,844,000.
 - (3) Establish an appropriation to the City Manager's Office for Government Access – Capital Expenditures in the amount of \$316,000.
 - (4) Increase the Public, Educational and Government (PEG) Access Facilities – Operations appropriation by \$120,000.
 - (5) Increase the Use of Money and Property revenue estimate by \$220,000.
 - (6) Increase Other Revenue estimate by \$310,000.

CEQA: Not a Project. (City Manager's Office)

[Public Safety, Finance and Strategic Support Committee referral – 1/17/08 – Item (1)]

Ordinance No. 28235 adopted.

Resolution No. 74221 adopted.

Staff directed to report back annually to the Public Safety, Finance and Strategic Support Committee.

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.1 Report of the Community & Economic Development Committee Council Member Pyle, Chair No Report.

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.2 Public Hearing on the Reorganization/Annexation of Penitencia No. 76.

Recommendation: Conduct Public Hearing and consider the adoption of a resolution on the reorganization/annexation to the City of San José of territory designated as Penitencia No. 76 on an approximately 1.14 gross acre County pocket consisting of 1 parcel located on the south side of Sierra Road, 200 feet east of Varner Court, and detachment of the same from the appropriate special districts including Central Fire Protection and Area No. 01 (Library Services) County Service (Jack Kim and Hester Lau-Kim, Owner).

CEQA: Resolution No. 65459. Council District 4. (Planning, Building and Code Enforcement)

(Deferred from 12/18/07 – Item 4.4)

Heard in the evening.

The Public Hearing was held.

Resolution No. 74223 adopted.

4.3 Public Hearing on the Reorganization/Annexation of Story No. 58.

Recommendation: Conduct Public Hearing and consider the adoption of a resolution on the reorganization/annexation to the City of San José of territory designated as Story No. 58 on an approximately 6.93 gross acre County island consisting of 25 parcels located on both sides of Rosemar Avenue, between Juliet Park Drive and Fleming Avenue and the north side of Fleming Avenue between Rosemar Avenue and Marchant Court, and detachment of the same from the appropriate special districts including Central Fire Protection, County Sanitation District 2-3, and Area No. 01 (Library Services) County Service (Multiple Owners). CEQA: Resolution No. 65459 (Related Rezoning C06-106). Council District 5. (Planning, Building and Code Enforcement)

Heard in the evening.

The Public Hearing was held.

Resolution No. 74224 adopted.

4.4 Public Hearing on the Reorganization/Annexation of Capitol No. 55.

Recommendation: Conduct Public Hearing and consider the adoption of a resolution on the reorganization/annexation to the City of San José of territory designated as Capitol No. 55 on an approximately 0.74 gross acre County island consisting of 4 parcels located on the southwest side of South White Road, 400 feet southeast of East Hills Drive, and detachment of the same from the appropriate special districts including Central Fire Protection, County Lighting, County Sanitation District 2-3, and Area No. 01 (Library Services) County Service (Jesse and Olga Villarreal, Emilia Gonzales, and Alex and Gloria Banuelos, Owners). CEQA: Resolution No. 65459 (Related Rezoning C06-107). Council District 5. (Planning, Building and Code Enforcement)

Heard in the evening.

The Public Hearing was held.

Resolution No. 74225 adopted.

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.5 Public Hearing on the Reorganization/Annexation of Capitol No. 56.

Recommendation: Conduct Public Hearing and consider the adoption of a resolution on the reorganization/annexation to the City of San José of territory designated as Capitol No. 56 on an approximately 0.27 gross acre County island consisting of 2 parcels located on the southwest side of South White Road, 600 feet southeast of East Hills Drive, and detachment of the same from the appropriate special districts including Central Fire Protection, County Lighting, County Sanitation District 2-3, and Area No. 01 (Library Services) County Service (Michael Sanders Jr. and Sr., and Isabel M. Hernandez; Owners). CEQA: Resolution No. 65459 (Related Prezoning C06-108). Council District 5. (Planning, Building and Code Enforcement)

Heard in the evening.

The Public Hearing was held.

Resolution No. 74226 adopted.

4.6 Public Hearing on the Reorganization/Annexation of Evergreen No. 200.

Recommendation: Conduct Public Hearing and consider the adoption of a resolution on the reorganization/annexation to the City of San José of territory designated as Evergreen No. 200 on an approximately 34.1 gross acre County island consisting of 36 parcels located between Pleasant Acres Drive and Ruby Avenue, west of Murillo Avenue, and detachment of the same from the appropriate special districts including Central Fire Protection and Area No. 01 (Library Services) County Service (Multiple Owners). CEQA: Resolution No. 65459 (Related Prezoning C06-127). Council District 8. (Planning, Building and Code Enforcement)

Deferred to 2/26/08 per Director of Planning, Building and Code Enforcement.

4.7 Public Hearing on the Reorganization/Annexation of Evergreen No. 201.

Recommendation: Conduct Public Hearing and consider the adoption of a resolution on the reorganization/annexation to the City of San José of territory designated as Evergreen No. 201 on an approximately 2.50 gross acre County island consisting of 6 parcels located on the northeast corner of Ruby Avenue and Holderman Drive, and detachment of the same from the appropriate special districts including Central Fire Protection and Area No. 01 (Library Services) County Service (Multiple Owners). CEQA: Resolution No. 65459 (Related Prezoning C06-128). Council District 8. (Planning, Building and Code Enforcement)

Heard in the evening.

The Public Hearing was held.

Resolution No. 74227 adopted.

5. NEIGHBORHOOD SERVICES

- 5.1 Report of the Neighborhood Services and Education Committee – December 13, 2007**
Council Member Chirco, Chair
Report and Actions of December 13, 2007 were accepted.
- 5.2 Report of the Neighborhood Services and Education Committee – January 10, 2008**
Council Member Chirco, Chair
Report and Actions of January 10, 2008 were accepted.

6. TRANSPORTATION & AVIATION SERVICES

- 6.1 Report of the Transportation and Environment Committee – January 14, 2008**
Council Member Williams, Chair
Meeting Canceled.

7. ENVIRONMENTAL & UTILITY SERVICES

8. PUBLIC SAFETY SERVICES

- 8.1 2007-09 Spending Plan for the Supplemental Law Enforcement Services (SLES) Fund Grant.**

Recommendation:

- (a) Approval of the 2007-09 Spending Plan for the Supplemental Law Enforcement Services (SLES) Fund for \$1,872,281.
Approved.
- (b) Approval of the revised 2006-08 Spending Plan for the SLES Grant, reallocating funding from the previously established project #1, Furniture, Fixtures, and Equipment; and project #11, Freezer for Biological Evidence Storage, and allocate \$50,000 interest earned into the established projects within the same grant.
Approved.
- (c) Adoption of the following 2007-2009 Appropriation Ordinance and Funding Sources Resolution amendments in the Supplemental Law Enforcement Services Fund (Fund 414):
- (1) Establish a SLES Grant 2007-09 appropriation for the Police Department in the amount of \$1,872,281.
 - (2) Increase the Earned Revenue by \$1,872,281.
- CEQA: Not a Project. (Police/City Manager's Office)
Ordinance No. 28236 adopted.
Resolution No. 74222 adopted.

8. PUBLIC SAFETY SERVICES

8.2 Police Department In-Custody Death Training Review Panel and Revised Citizen Complaint Process.

Recommendation:

- (a) Receive presentation on the Police Department's revised definitions and objective criteria for the Citizen Complaint Process, as directed by the City Council at the June 21, 2007 Council Meeting.
- (b) Receive presentation on the Police Department In-Custody Death Training Review Panel, as directed by the City Council at the September 18, 2007 Council Meeting.

Presentations Received.

Noes: Campos, Liccardo, Nguyen.

- (c) Direction to the Administration to return in one year with a progress report on the performance of the In-Custody Death Training Review Panel and Citizen Complaint Process, and present any changes if necessary.

CEQA: Not a Project. (City Manager's Office)

Heard No Earlier than 3:00 p.m.

Approved.

Noes: Campos, Liccardo, Nguyen.

Staff's recommendation to begin in March of 2008 the implementation of the protocols/procedures (as outlined in the January 18, 2008 City Manager's Report), as modified by the Police Chief's PowerPoint presentation dated January 29, 2008, and with the incorporation of the City Attorney's Memorandum dated January 25, 2008, was approved; and the Administration was directed to return in one year with a progress report on implementation.

Noes: Campos, Liccardo, Nguyen.

9. JOINT COUNCIL/REDEVELOPMENT AGENCY

- **Open Forum**
None were presented.
- **Adjournment**
The Council of the City of San José adjourned the afternoon Council session at 5:58 p.m.

10. GENERAL PLAN PUBLIC HEARINGS

No General Plan Public Hearing at this time.

11. PUBLIC HEARINGS ON CONSENT CALENDAR

(Heard by the City Council at 7:01 p.m.)

11.1 Public Hearings on Consent Calendar.

Recommendation:

- (a) Consideration of an ordinance rezoning the real property located at/on the northwest corner of Palm Street and W. Alma Avenue from the LI Light Industrial Zoning District to A(PD) Planned Development Zoning District to allow three single-family detached residences on a 0.20 gross acre site (Enterprise Estate, Inc & Endeavor Investment, Inc., Owners). SNI: Washington. CEQA: Exempt. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (6-0-1).

PDC06-057 - District 3

Ordinance No. 28237 passed for publication.

- (b) Consideration of an ordinance zoning the real property located on the south side of East Taylor Street approximately 90 feet westerly of North 20th Street (944 E Taylor St.) to remove one existing single-family residence and construct two single-family detached residences on a 0.23 gross acre site (Anh-Mai Phuong Le, Owner). CEQA: Exempt.

PDC07-003 - District 3

Continued to 02/26/08 per Administration.

- (c) Consideration of an ordinance rezoning the real property located at/on the north side of E Santa Clara Street approximately 360 feet east of 21st Street (1051 East Santa Clara Street) from CG Commercial General and R-2 Two-Family Residence Zoning District to A(PD) Planned Development Zoning District to allow a full-service car wash on a 0.36 gross acre site (Helen Tang, Owner). SNI: Five Wounds/Brookwood Terrace. CEQA: Mitigated Negative Declaration. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (6-0-1).

PDC06-009 - District 3

Ordinance No. 28238 passed for publication.

11. PUBLIC HEARINGS ON CONSENT CALENDAR

11.1 Public Hearings on Consent Calendar (Cont'd.)

- (d) Consideration of an ordinance rezoning the real property located on the north side of Ridder Park Drive at the southeast corner of Interstate 880 and Brokaw Road from the IP Industrial Park Zoning District to the CG Commercial General Zoning District to allow commercial uses on a 17.38 gross acres site (Northwest Publications Inc, Owner; Sand Hill Property Company, Developer). CEQA: Resolution No. 72768 and Addendum thereto. Director of Planning, Building and Code Enforcement recommends approval. No Planning Commission action required.

C07-048 - District 4

Ordinance No. 28239 passed for publication, with Staff directed to address the concerns of a public speaker and layout the next steps of the public process regarding the site development.

- (e) Consideration of an ordinance rezoning the real property located at the northeast corner of Monterey Road and Umbarger Road (2680 Monterey Rd) from County to the CN Commercial Neighborhood Zoning District to allow commercial uses on a 2.7 gross acre site (Caputo, Daniel J. Jr. Trustee & Et Al, Owner; Phil Rolla, Developer). CEQA: Resolution No. 65459. Director of Planning, Building and Code Enforcement recommends approval. No Planning Commission action required.

C07-092 - District 7

Deferred to 2/26/08.

- (f) Consideration of an ordinance rezoning the real property located at the northwest corner of Los Gatos-Almaden Road and Warwick Road (14861 Los Gatos-Almaden Road) from R-1-2 Residence Zoning District to R-1-8 Residence Zoning District to allow residential uses on a 0.99 gross acre site (Abdy Mirzadegan, Owner). CEQA: Resolution No. 65459.

C07-087 - District 9

Continued to 02/05/08 per Administration.

END OF PUBLIC HEARINGS ON CONSENT CALENDAR

11. PUBLIC HEARINGS

11.2 Public Hearing on US-101/Oakland/Mabury Transportation Policy Impact Fee Ordinance.

Recommendation: Conduct public hearing and consider approval of an ordinance adding a new Chapter 14.30 to Title 14 of the San José Municipal Code establishing the Transportation Impact Fee required to implement the traffic improvements set forth in the US-101/Oakland/Mabury Transportation Development Policy approved by Council on December 18, 2007. CEQA: Resolution No. 74195.1. Council District 3 and 4. SNI: Thirteenth Street. (Transportation)

Ordinance No. 28240 passed for publication.

11.3 Administrative Hearing and consideration of an appeal of the Planning Commission's decision to deny a Conditional Use Permit and Determination of Public Convenience or Necessity.

Recommendation: Administrative Hearing and consideration of an appeal of the Planning Commission's decision to deny a Conditional Use Permit and Determination of Public Convenience or Necessity to allow demolition of 78,409 square feet of existing commercial building and allow construction of 80,800 square feet resulting in a total of 122,584 square feet for commercial uses including the off-sale of alcohol for a new grocery store (Whole Foods) on a 10.2 gross acres (Mandatory denial by the Planning Commission 12/10/07), in the CG General Commercial Zoning District, located in the area generally bound by Blossom Hill Road on the north, Gallup Drive to the west, Mesa drive to the south, and Almaden Expressway to the east (1110 Blossom Hill Road) (Pueblo Plaza Partnership, Owner). SNI: Hoffman/Via Monte. CEQA: Exempt. Director of Planning, Building and Code Enforcement recommends to uphold the appeal and approve the subject Conditional Use Permit and make a Determination of Public Convenience or Necessity by finding that the required findings for a Determination of Public Convenience or Necessity can be made and that there is a significant overriding public benefit served by the proposed off-sale of alcohol.

CP07-072/ABC07-006 – District 10

Deferred to 2/26/08 per Director of Planning, Building and Code Enforcement.

• Notice of City Engineer's Pending Decision on Final Maps

In accordance with Sec. 19.16.140d of the San José Municipal Code, this is notice of the City Engineer's receipt of the following Final Maps for review:

<u>Tract</u>	<u>Location</u>	<u>Council District</u>	<u>Developer</u>	<u>Lots/Units</u>	<u>Type</u>
9975	Montague Expressway, 550 feet west of North 1 st Street	4	Legacy Partners	7 Lots / 530 Units	Multi-Family Attached and Commercial Units

- Notice of City Engineer's Award of Construction Projects
None.

- Notice of Contracts Executed by Council Appointees

In accordance with Municipal Code Section 4.04.080, titled "Quarterly Reports", the following is a list of contracts executed by Council Appointees or designees during the first quarter of Fiscal Year 2007-2008 (July 1, 2007 – September 30, 2007). The list includes contracts or amendments to contract for services with a value between \$100,000 and \$250,000 and contracts or amendments to contracts for equipment, supplies, and material with a value between \$100,000 and \$1 million.

City Attorney's Contract Activity

<u>Contractor</u>	<u>Description of Contract</u>	<u>Amount</u>
Hanson Bridgett Marcus Vlahos Rudy, LLP	Elections Commission Evaluator; First Amendment to add \$30,000 and extended term	\$230,000

City Auditor's Contract Activity

The City Auditor's Office has no contract activity to report.

City Clerk's Contract Activity

The City Clerk's Office has no contract activity to report.

City Manager's Contract Activity

<u>Contractor</u>	<u>Description of Contract</u>	<u>Amount</u>
Acire, Inc.	Consultant to develop an interactive system at the City Hall Lobby Traveler Information Center.	\$220,000
Burchard & Rinehart	Consultant to provide appraisal services for the Public Works Real Estate Division.	\$250,000
Carneghi-Blum & Partners	Consultant to provide appraisal services for the Public Works Real Estate Division.	\$250,000
CTG Energetics, Inc.	Consultant to perform green building analysis including data collection and energy modeling.	\$245,000
DR Associates International	Consultant to provide screening of potential employees.	\$162,000
Hargis & Associates	Consultant to develop and administer assessments of sworn personnel.	\$122,000
J Kaeuper & Company	Consultant to provide appraisal services for the Public Works Real Estate Division.	\$250,000

- **Notice of Contracts Executed by Council Appointees**

City Manager's Contract Activity (Cont'd.)

<u>Contractor</u>	<u>Description of Contract</u>	<u>Amount</u>
Management Education Group	Consultant to conduct leadership training.	\$203,000
Management Partners, Incorporated	Consultant to support the City Manager's Structural Budget Deficit Task Force.	\$200,000
Neale & Sons, Inc.	Consultant to provide appraisal services for the Public Works Real Estate Division.	\$250,000
Patrick Idiart & Associates	Consultant to provide appraisal services for the Public Works Real Estate Division.	\$250,000
Smith & Associates	Consultant to provide appraisal services for the Public Works Real Estate Division.	\$250,000
The Reitman Group	Consultant to provide appraisal services for the Public Works Real Estate Division.	\$250,000
Wilfred Jarvis Institute	Consultant services to provide leadership training and consulting for multiple departments; Second Amendment to add \$50,000 and extend term.	\$250,000

Director of Finance Contract Activity – Services

<u>Contractor</u>	<u>Description of Contract</u>	<u>Amount</u>
Alameda Co Sheriff's Office	Emergency Vehicle Operation Training Course	\$159,478
Alpha Analytical Labs, Inc.	Water Sample Analysis	\$150,000
B & A Friction Materials	Automotive - Brakes & Related Parts and Services	\$149,100
BRG Supply, LLC	Traffic Signal Controllers, Related Equipment & Services	\$215,000
Cameron	Diesel Engine: Parts, Inspections & Technical Assistance	\$120,000
Central Medical Lab, Inc.	Testing of Blood, Urine and Breath	\$210,000
Coast Oil Co.	Fuel, Oil, Grease, Solvent and Lube Analysis	\$120,000
Compass Group USA, Inc.	Meals for the Senior Nutrition Program	\$175,000
Contract Sweeping Services, Inc.	Power Street Sweeping	\$160,000
Cummins West, Inc.	Installation of Diesel Particulate Filters	\$116,000
Cupertino Electric, Inc.	Misc. Electrical Maintenance & Repair Services	\$150,000
Duran Hogan Construction, Inc.	Sidewalk Removal & Replacement	\$100,000
Duran Hogan Construction, Inc.	Sidewalk Repair	\$140,000
ECCO Equipment Corp.	Rental - Earth Moving & Construction Equipment	\$150,000

- **Notice of Contracts Executed by Council Appointees**

Director of Finance Contract Activity – Services (Cont'd.)

<u>Contractor</u>	<u>Description of Contract</u>	<u>Amount</u>
Fricke Parks Press	Printing of Citywide Activity Guide	\$124,445
Graebel Companies, Inc.	Drayage Moving & Storage Services	\$125,000
Hertz Corporation,	Rental - Large & Small Construction Equipment	\$120,000
Hi Tech Emergency Vehicle	Maintenance Repair & Equipment for Fire Apparatus and Related Equipment	\$230,250
Industrial Safety Supply	Breathing Apparatus Flow Testing & Repair	\$120,000
Jack Doheny Supplies, Inc.	Rental - Large Cleaning Machines/Equipment	\$150,000
M F Filice and Sons	Replenishment of Fibar	\$200,000
Monterey Mechanical	Misc. Emergency/Non Emergency Repairs	\$160,000
Motorola CE, Inc.	Motorola Electronic Replacement Parts & Repair	\$130,000
Nunez Painting, Inc.	Sandblasting and Painting	\$200,000
On Assignment Lab Support	Temporary Personnel Services	\$136,364
Oracle USA, Inc.	Software Update License & Support Service	\$117,786
Oracle USA, Inc.	Peoplesoft Support Service	\$251,972
Reed & Graham	Street Surface Repair	\$100,000
Rosendin Electric, Inc.	Misc. Electrical Maintenance & Repair Services	\$150,000
Safety Kleen Systems	Pickup & Disposal of Hazardous Waste	\$165,000
San Jose Mercury News	Publication of Legal Notices and Advertising	\$155,000
Santa Clara Valley Medical Center	Medical Testing	\$150,000
Scheidts, Ray Electric Inc.	Electrical Maintenance & Repair Services	\$150,000
Scott's P.P.E., Inc.	Cleaning & Repair of Firefighter Turnouts, Jackets & Boots	\$170,000
Summit Uniform	Purchase and Repair of Body Armor	\$110,000
Telstar Instruments, Inc.	On-Site Repair, Maintenance & Calibration of Process Control Instruments/EquipmentControl Plant	\$200,000
Three M Custom Svc.	Maintenance Agreement Theft Detection Software	\$146,172
TI Management Group, LLC	Window Washing Services	\$150,000
Tiburon Inc.	Annual Software Support & Maintenance of Record Management System	\$189,288
Trendtec - San Jose, CA	Temporary Personnel Services for Water Pollution Control Plant; First Amendment to add \$79,580	\$132,031
Trugreen Landcare	Tree Maintenance; First Amendment to add \$35,000	\$125,000
Trugreen Landcare	Tree Maintenance	\$125,000
Trugreen Landcare	Tree Maintenance	\$210,000
Western States Oil Co.	Fuel, Oil, Grease, Solvent and Lube Analysis	\$100,000
Willson Construction	Sidewalk Removal & Replacement	\$100,000
Wingfoot Commercial	Automotive Tires/Services & Repairs	\$245,000

- **Notice of Contracts Executed by Council Appointees**

Director of Finance Contract Activity – Equipment, Materials, and Supplies

<u>Contractor</u>	<u>Description of Contract</u>	<u>Amount</u>
ABB Automation, Inc.	Repair & Replacement Hardware, Distributed Control System and Variable Frequency Drives	\$400,000
Allstar Fire Equipment, Inc.	Firefighter Protective Clothing	\$150,000
AZCO	Traffic Signals/Street Light Poles, Parts & Supplies	\$230,000
Badger Meter, Inc.	Badger Meters & Replacement Parts	\$400,000
Baker & Taylor Entertainment	Compact Discs	\$100,000
Baker & Taylor, Inc.	Library Materials; First Amendment to add \$50,000	\$100,000
Baker & Taylor, Inc.	Paperback Books	\$135,000
Beck Shoes, Inc.	Safety Shoes	\$119,750
Brite Food Service	Raw Food, Freezer & Cooking Supplies	\$175,000
Buckles Smith Electric	Electrical Parts and Supplies	\$150,000
Buckles Smith Electric	Electrical Parts and Supplies	\$130,000
Butler Animal Health	Animal Medicine & Misc. Animal Supplies; First Amendment to add \$45,477	\$135,477
Calabrian Corporation	Industrial Chemical Sulfur Dioxide	\$220,000
Clean Source	Paper Products	\$310,000
Clean Source	Janitorial Supplies	\$100,000
Coast Oil Co.	Fuel & Petroleum Products	\$100,000
Cooks Automotive Service	Automotive Parts - Belts, Brakes, Filters, Fuel Systems	\$162,500
Curtis, L N & Sons	Small Tools, Misc. Parts & Supplies to Repair Nozzles/Hoses	\$195,000
Dapper Tire Company	Replacement Supplies Automotive Tires/Parts	\$113,000
Double D Transportation	Gravel Rich Bed Bottom Material	\$350,000
EBSCO Publishing	Periodical Subscriptions	\$120,000
Electrical Distributors	Street Lights & Traffic Signal Equipment	\$330,000
Graybar Electrical Co, Inc.	Electrical Parts & Supplies	\$130,000
Industrial Safety Supply	Safety Supplies	\$195,000
Ingram Library Services, Inc.	Library Materials	\$125,000
Jam Services, Inc.	Vehicle Signal Head & Pedestrian Signal Head	\$250,000
Kemira Water Solutions, Inc.	Aqueous Ferrous Chloride	\$750,000
LC Action Police Supply	Automotive Emergency Accessories & Parts	\$100,000
Lucid Star, Inc.	Chinese Language Books & Media	\$100,000
Maita Chevrolet GEO & GMAC	Automobile-Unmarked Police Pursuit Sedan	\$199,819

- **Notice of Contracts Executed by Council Appointees**

Director of Finance Contract Activity – Equipment, Materials, and Supplies (Cont'd.)

<u>Contractor</u>	<u>Description of Contract</u>	<u>Amount</u>
Midwest Tape	Video Cassettes, Compact Discs & DVDs	\$200,000
Motorola CE Inc.	Motorola Radios/Batteries/Multi Units Charger	\$105,377
Mueller, Inc.	Fire Hydrants	\$200,000
Multi-Cultural Books & Videos	Indian Language Books and Media	\$100,000
Pioneer Americas, Inc.	Liquid Sodium Hypochlorite	\$150,000
S & S Supplies & Solutions	Hardware and Hand Tools	\$200,000
Safeway Sign Co.	Street Regulatory Signs; First Amendment to add \$60,000	\$120,000
San Diego Police Equip Co., Inc.	Ammunition	\$173,000
Silicon Valley Library System	Electronic Library Databases	\$205,000
Synchronex	Traffic Signal "P" Cabinets	\$130,000
Sysco Food Svcs., Central CA	Groceries, Product & Kitchen Supplies	\$200,000
Sysco Food Svcs.	Food, Freezer and Cooking Supplies	\$250,000
Target Specialty Products	Fertilizer, Herbicides, Insecticides	\$230,000
United States Postal Service	Postage	\$600,000
Valley Oil Co.	Fuel & Petroleum Products	\$200,000
Waxie Sanitary Supply	Janitorial Paper Supplies	\$130,000
XPEDX	Recycled Paper Bond	\$134,410

- **Open Forum**

(1) **Mark Trout expressed religious viewpoints.**

- **Adjournment**

The Council of the City of San José adjourned the meeting at 7:17 p.m.